

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FIRST DATA MERCHANT SERVICES LLC,

Case No.: 19-cv-10964 (PKC)

Plaintiff,

-against-

MM DEVELOPMENT COMPANY d/b/a
PLANET 13; SISTEM COMMERCE CITY LLC
d/b/a SILVER STEM FINE CANNABIS;
KTZ HOLDINGS, INC. d/b/a SILVER STEM;
GTR SOURCE, LLC; NEW YORK CITY MARSHAL
STEPHEN W. BIEGEL; ML FACTORS FUNDING
LIMITED LIABILITY COMPANY;
PELICAN COMMUNICATIONS, INC. d/b/a
THE PELICAN GROUP; LINX CARD, INC.;
and GIVV, INC.,

Defendants.
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**DECLARATION OF KRYSTINA R. MAOLA IN RESPONSE TO PLAINTIFF'S
RENEWED MOTION FOR PERMANENT INJUNCTION**

KRYSTINA R. MAOLA, an attorney duly licensed to practice law before the courts of the State of New York and the United States District Court for the Southern District of New York, declares the following with knowledge of the penalties for perjury:

1. I am an associate of the law firm GALLO VITUCCI KLAR LLP, attorneys of record for interpleader defendant PELICAN COMMUNICATIONS, INC., d/b/a THE PELICAN GROUP ("Pelican") in this civil action. As such, I am familiar with the facts and circumstances pertaining to the within litigation, the source of my knowledge being a file maintained by this law firm in the defense of this action and my personal handling of this litigation.
2. This Declaration is made in response to Plaintiff FIRST DATA MERCHANT SERVICES LLC's ("First Data") renewed motion for a permanent injunction pursuant to 28

U.S.C. § 2361.

3. At this time, your Declarant does not know if First Data has in its possession any other sums of money that may be the subject of the litigation currently pending in the Superior Court of the State of California, captioned *MM Development Company, Inc, d/b/a Planet 13 v. Linx Card, Inc. et al.*, Case No. C19-02278 (the “California Action”) or other litigation that may arise. As set forth in First Data’s renewed motion, First Data is a defendant in the California Action. First Data has not filed an answer or otherwise joined issue in the California Action. Upon information and belief, no discovery has been exchanged by First Data in the California Action. As such, it is unclear whether First Data may possess other monies that could be the subject of the claims pending in the California Action or otherwise be liable to Pelican unrelated to the Disputed Funds or their related transactions.

4. Because of the foregoing, should this Court grant First Data’s renewed motion and enter the permanent injunction sought by First Data, Pelican respectfully requests that the injunction be limited in scope only to the Disputed Funds deposited with this Court. The litigation of other claims that do not specifically seek monies from the Disputed Funds should be permitted to continue and/or be initiated.

Dated: New York, New York
February 21, 2020


Krystina R. Maola (KM0322)